



Agricultural Marketing Service

The Proposed Rule to establish an Organic Research, Promotion, & Information Program: What you need to know

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The Organic Trade Association (OTA), petitioner of this proposed program, conducted stakeholder outreach prior to submitting proposal to USDA in May 2015.
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After analyzing the proposals, USDA published proposed rule in the Federal Register with 60-day comment period.
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Based on public comments, USDA may: (1) issue final proposed rule & announce referendum; (2) issue supplemental notice of proposed rulemaking; or (3) terminate the proceedings.
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If USDA determines proposed rule is supported, USDA would conduct referendum among eligible voters to determine if majority of the industry supports a program.
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If program is approved by industry voters, USDA will publish final rule to implement the program. If referendum fails, the rulemaking proceeding would be terminated.

Overview

Since 1966, Congress has authorized the establishment of 22 research and promotion (R&P) programs that are industry-funded and empower agricultural industries with a framework to pool resources and combine efforts to develop new markets, strengthen existing markets, and conduct important research and promotion activities. AMS provides oversight, paid for by industry assessments, which helps ensure fiscal responsibility, program efficiency and fair treatment of participating stakeholders.

As part of the 2014 Farm Bill, Congress authorized the Secretary of Agriculture to issue an organic commodity promotion program. In response to a proposal submitted by OTA to establish an Organic Research, Promotion, and Information Order (proposed Order), the U.S. Department of Agriculture (USDA) has reviewed the proposal, conducted the required regulatory analyses, and subsequently published the proposal in the Federal Register with an invitation for public comments.

What is the scope of products being covered by this proposal?

The proposed Order would cover certified organic products and would include a range of agricultural commodities, such as fruits, vegetables, dairy, meat, poultry, breads, grains, snack foods, condiments, beverages, and packaged and prepared foods. It would also include non-food items, such as textiles, personal care products, pet food, and flowers. Organic imports – both those certified under the USDA organic regulations and those entering the U.S. under an organic equivalency arrangement – would also be covered.

How would the program budget be allocated?

OTA expects that the proposed program would generate approximately \$30 million in revenue from assessments. The proposed program would use no less than 25% of its budget for research with the majority allocated to agricultural research; 25% for information with the majority allocated to producer information; 25% for promotion, and 25% for discretionary purposes. Regional organic producer Board members will establish priorities, including regional considerations, for investments in agricultural research.

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Who would be assessed?

Certified domestic producers, certified handlers and importers of organic products would pay the following initial assessment rate:

- Producers and handlers with gross organic sales greater than \$250,000 for the previous marketing year will pay one tenth of one percent of net organic sales;
- Importers of organic products declaring a transaction value greater than \$250,000 for the prior marketing year will pay one tenth of one percent of the declared transaction value of organic products imported into the United States;

The proposed Order would also give the option of being voluntarily assessed and participating in the program to producers and handlers of organic products with gross organic sales of \$250,000 or less for the prior marketing year and importers with \$250,000 or less in transaction value of imported organic products for the prior marketing year.

Who would be exempt from assessments?

Under the proposal, the following entities would be exempt from mandatory assessments under the proposed program:

- Producers and handlers with gross organic sales of \$250,000 or less for the prior marketing year and importers with \$250,000 or less in transaction value of imported organic products for the prior marketing year.

Further, organic products exported from the U.S. would be exempt from the proposed program.

Under the current regulations, organic producers, handlers and importers can apply for an exemption from paying assessments into single-commodity R&P programs such as blueberries, beef, cotton, etc.

Should an organic R&P program be implemented, this exemption would go away. At that time, organic producers and handlers would need to choose to either pay into the organic R&P program or into the single-commodity R&P program.

What would be the composition of the proposed Board?

The proposed Organic Research and Promotion Board would be composed of 17 members comprised of the following: 8 U.S. producers from 7 defined production regions and 7 U.S. handlers from the U.S.; 1 importer; and 1 non-voting public member. Organic stakeholders would nominate board members and the Secretary of Agriculture will appoint members from among the nominees.

At least once every five years, the composition of the board would be reviewed to ensure board seats for producers are representative of the geographic distribution of the volume of organic agricultural commodities produced in the U.S, and board representation for importers is representative of the value of organic products imported into the U.S.

What does holding a referendum do?

For R&P programs, the referendum acts as a tool for those eligible to participate (e.g. covered entities) to express their support for or opposition to a program being created, suspended, or terminated. Should a referendum will be announced and conducted for this proposed program, a majority of voters (e.g. greater than 50 percent) would need to vote indicating their support. AMS is proposing one vote per tax identification number (i.e., per business entity) for each assessed and voluntarily assessed entity.

We encourage the organic community, consumers, industry, and other stakeholders to provide comments and feedback on the proposed rules. Here are the Federal Register links for the proposed order: <http://go.usa.gov/x9meR> and the proposed referendum procedures: <http://go.usa.gov/x9meU>

More information about research and promotion programs is also available at www.ams.usda.gov/rules-regulations/research-promotion

USDA employees may not discuss the merits of proposals in open rulemaking status. Discussions on procedural matters are welcome.

Organic Research, Promotion, & Information Program Proposed Rule:

Key resources available online

View Proposed Rule and Supporting Documents:

www.ams.usda.gov/rules-regulations/research-promotion/proposals/organic

Proposed Rule at the Federal Register

Submit Comments:

Interested parties may submit written comments online or by mail.

- **Online:** Visit www.regulations.gov. Search for AMS-SC-16-0112. Select the document link and follow the instructions for submitting comments.
- **By mail,** send comments to: Heather Pichelman, Division Director, Promotion and Economics Division, Specialty Crops Program, AMS, USDA, Room 2646-So. Ag Stop 0244, 1400 Independence Ave. SW. Washington, DC 20250-0244

Comments due: March 20, 2017